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Espionage Case Against FBI Agent Ends in Mistrial

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LOS ANGELES, Nov. 6—A mistrial was declared today in the case of Richard W. Miller, a 20-year FBI veteran and the first FBI agent charged with espionage.

Miller, 48, was charged with one count of conspiracy, three of espionage and three of bribery in an alleged scheme to pass classified documents to the Soviet Union in return for \$65,000 in cash and gold, a \$675 trench coat and the sexual favors of Soviet emigre Svetlana Ogorodnikova.

Ogorodnikova, 35, and her husband, Nikolai, 53, pleaded guilty last June to conspiring with Miller to commit espionage. Ogorodnikova is serving an 18-year term in federal prison, and her husband, sentenced to eight years, is attempting to withdraw his guilty plea.

U.S. District Court Judge David V. Kenyon announced the mistrial after the jury, which heard 11 weeks of testimony and deliberated for 71 hours over 14 days, told him in a note:

"We still appear to be hopelessly deadlocked. At this point, the jury feels that further deliberation would not make a substantial change in this situation . . . we believe we have done our best. Our decision is based on strong convictions that cannot be resolved."

The jurors reported themselves split, 10 to 2, against conviction on the conspiracy count and two espionage counts and split, 11 to 1, for conviction on one espionage count and the three bribery counts.

Jurors told Kenyon last Friday that they were deadlocked, and he asked them to continue deliberating.

After the jury was excused, U.S. Attorney Robert C. Bonner said, "I anticipate that the government will retry Mr. Miller on all counts."

According to testimony in the case, Miller met Svetlana Ogorodnikova in May 1984. Warned by his FBI superiors that she was unreliable and should be avoided, Miller was soon involved in a sexual relationship with her. In August 1984, he accompanied her to San Francisco, where she visited the Soviet consulate.

At the end of September, Miller told his superiors about the relationship. He said then, as his lawyers contended throughout the case, that he had been attempting to infiltrate a Soviet intelligence spy ring.

Nearly a month before Miller admitted his liaison with Ogorodnikova, the FBI had begun an investigation of that relationship called "Whipworm." A whipworm is an intestinal parasite.

In closing arguments, Bonner had described Miller as "a disgruntled, incompetent FBI agent, a misfit" ripe for recruitment by the Soviet KGB intelligence agency.

Bonner said that Miller went to his superiors only because he had become aware of the FBI probe and that he had tried to save himself with a "self-serving story" that was "and still is baloney."

Miller's attorney, Joel Levine, countered in closing arguments that his client "intended to be recruited [by the KGB] . . . but not for criminal reasons. He intended to be recruited, but for his employer."

"There the issue before you is crystallized . . . the predominant issue in this case is, what was Mr. Miller's intent in the summer of 1984? Was he intending to be a spy or was he intending to be a double agent?" Miller asked.

Most jurors told reporters that they had agreed not to comment on their deliberations, but one said he thinks that the government presented an "excellent case" and said he is "very disappointed" that no verdict was reached.

A status conference in the case is set for Nov. 21, and Miller remains held without bail in the federal prison at Terminal Island near Long Beach.